IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.SASIDHARAN NAMBIAR

TUESDAY, THE 2ND JANUARY 2007 / 12TH POUSHA 1928

WP(C).No. 1102 of 2005(F)

CMA.3/2004 of ADDL.DISTRICT COURT,KOTTAYAM
IA 1343/03 in os 234/03 of MUNSIFF COURT, CHANGANACHERRY

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PETITIONER:

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1. BHAGAVATHI VILASOM N.S.S. KARAYOGAM, NO.3529, ITHITHANAM, CHANGANASSERY, REP. BY ITS SECRETARY, I.K.SASIDHARAN PILLAI,S/O.KESAVAN NAIR.

2. C.T.RADHAKRISHNAN NAIR, PRESIDENT, BHAGAVATHI VILASOM N.S.S. KARAYOGAM, ITHITHANAM, CHANGANASSERY, KOTTAYAM DISTRICT.

3. I.K.SASIDHARAN PILLAI, SECRETARY, BHAGAVATHI VILASOM N.S.S. KARAYOGAM, ITHITHANAM, CHANGANASSERY, KOTTAYAM DISTRICT.

BY ADV. SRI.K.P.SREEKUMAR
SRI.P.M.SATHEESH (PALAKKAL MAVILA VALAPP

RESPONDENTS:

P.K.SREEKUMARAN NAIR, AGED ABOUT 41 YEARS, SREESHYLAM HOUSE, ITHITHANAM KARA, MALAKUNNAM P.O., KURICHY VILLAGE, CHANGANASSERY.

BY ADV. SRI.V.GIRI

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 02/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX:

EXT.P1: COPY OF PLAINT IN OS 218/04 FILED BY RESPONDENT HEREIN BEFORE THE MUNSIFF COURT, CHANGANACHERRY

EXT.P2: COPY OF INTERIM APPLICATION IA 1041/04 IN OS 218/04 OF MUNSIFF COURT, CHANGANACHERRY

EXT.P3: COPY OF ORDER DT.17.12.2003 PASSED BY MUNSIFF COURT, CHANGANACHERRY DISMISSING IA 1343/03 IN OS 234/03

EXT.P4: COPY OF JUDGMENT DT.5/10/04 PASSED BY ADDL.DISTRICT JUDGE, KOTTAYAM IN CMA 3/04 REVERSING EXT.P3 ORDER

//True copy//

PA TO JUDGE.

M.SASIDHARAN NAMBIAR,J.

W.P.(C) .NO.1102 OF 2005

Dated 2nd January 2007

JUDGMENT

Respondent is the plaintiff and petitioners the defendants in O.S.234/2003 on the file of Munsiff court, Changanacherry. Suit was filed on 18/8/2003 seeking a decree for permanent prohibitory injunction restraining the defendants from implementing the order dated 31/3/2003, terminating the membership of the plaintiff and also preventing plaintiff from attending the meeting of first defendant Karayogam. Plaintiff filed I.A.1343/2003, an application under Order XXXIX Rule 1 of Code of Civil Procedure seeking an order of temporary injunction. No interim order was granted. Finally under Ext.P3 order dated 17/12/2003 the application was dismissed. Petitioner challenged that order before the District court, Kottayam in C.M.A.3/2004. No interim order was granted by learned District Judge. Finally under Ext.P4 order dated 5/10/2004 learned District Judge acting upon Ext.B6 order passed by the Registrar accepting the

termination of membership of the plaintiff in the first defendant Karayogam, learned Additional District Judge granted an order of temporary injunction. It is challenged in this petition filed under Article 227 of Constitution of India. As per order dated 12/1/2005 this court granted an order of stay of operation of Ext.P4 order and since then the order is continuing. Challenging Ext.B6 order plaintiff filed O.S.218/2004 before the same court. Though I.A.1041/2004 was filed seeking an order of temporary injunction against Ext.B6 order, no order was passed in favour of the plaintiff in that suit. Now both the suits are being jointly tried by the learned Munsiff.

2. On hearing learned counsel appearing for petitioners and respondent I do not find any reason to go into the disputes involved in the matter. Question whether membership of the plaintiff could be terminated and whether the order dated 31/3/2003 and subsequent order dated 12/4/2004 are valid and binding are all matters to be decided by the learned Munsiff on evidence. In view of the order passed by this court on 12/1/2005, learned Munsiff is directed to dispose the suit untrammelled by any observations in Exts.P3 and P4 orders. Parties are directed to maintain the order

passed by this court on 12/1/2005.

Writ petition is disposed accordingly.

M.SASIDHARAN NAMBIAR,
JUDGE.

uj.